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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Charles Taylor, and Richard LaBryer,
Individually and on behalf of all
others similarly situated

No. 2:16-cv-02760-DGC

Plaintiffs,

V.

Republic Services, Inc.,

Defendant

PLAINTIFFS' RESPONSE TO
DEFENDANT'S EXPEDITED MOTION
FOR EXTENSION OF TIME TO
RESPOND TO PLAINTIFF'S MOTION
FOR CONDITIONAL CERTIFICATION

Plaintiffs Charles Taylor and Richard LaBryer, individually and on behalf of all opt-in plaintiffs and others similarly situated (hereinafter “Plaintiffs and the Putative Class Members”) file this Response to Defendant Republic Services, Inc.’s (“Republic”)

1 Expedited Motion for Extension of Time to Respond to Plaintiff’s Motion for Conditional
 2 Certification (“Motion for Extension”), and would respectfully show the following:

3 1. Republic has protested for more than a month now that the current matter
 4 before this Honorable Court “is *Serrano* redux, before *Serrano* has been concluded (i.e., the
 5 primary legal claims are the same, the defenses are the same, the lead lawyers are the same,
 6 **and the parties are virtually the same**.” See ECF 31, p. 2 (citing ECF No. 28) (emphasis
 7 added).
 8

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 10 2. Yet, Republic’s admissions in its Motion for Extension belie its arguments
 11 that *Taylor* should be dismissed, transferred or stayed pending the resolution of *Serrano*.
 12 Specifically, Republic admits that “**tens of thousands of individuals who were employed at**
 13 **hundreds of facilities across the United States**” are subject to Republic’s incentive pay
 14 plans and automatic meal deductions. *Id.* at 3.
 15

16 3. That admission by itself should alert this Court to Republic’s hypocrisy and
 17 inconsistent arguments (read: gamesmanship) made in support of its motion to dismiss,
 18 transfer or stay the *Taylor* case. As discussed at length in briefing already before this
 19 Honorable Court, the *Serrano* matter deals **only** with current and former waste disposal
 20 drivers who worked at Republic’s facilities in Texas. Plaintiffs’ counsel in *Serrano* never
 21 sought nationwide conditional certification thereby making it impossible to have the same
 22 parties at issue in the *Taylor* case.¹
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 28 ¹ It should also go without saying that any current or former waste disposal driver
 who opted in to the *Serrano* matter and has not been dismissed without prejudice is barred
 from participating in the *Taylor* matter as a matter of law.

1 4. And while the *Taylor* Plaintiffs do seek nationwide certification, it should be
2 noted that Plaintiffs specifically wish to carve out the plaintiffs in *Turner v. BFI Waste*
3 *Services, LLC et al*, No. 2:16-cv-02864-DCN (D.S.C. Aug. 17, 2016) and any putative class
4 members who worked in North and/or South Carolina in the last three years, which are the
5 subject of the *Turner* plaintiffs’ motion for conditional certification. *See Turner*, ECF No.
6 15.
7

8 5. Interestingly, Republic requested a two-week extension to respond to the
9 plaintiffs’ motion for conditional certification in the *Turner* case under the guise of “[d]ue
10 to Hurricane Matthew and its effects, several of Republic’s facilities in North and/or South
11 Carolina were closed and many of Republic’s employees in North Carolina and/or South
12 Carolina were subject to mandatory evacuation orders and had to relocate their families.”
13 *See Turner*, ECF No. 16, p. 2. Just as Republic has requested in *Taylor*, Republic claimed
14 it “required additional time to collect the relevant documents and information in order to
15 prepare its response.” *Id.*; *see also Taylor*, ECF No. 31, p. 3.
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19 6. Yet, miraculously, Republic was able to find enough documents and
20 information to file a motion for summary judgment against the plaintiffs in the *Turner* case
21 within the timeframe of the requested (and consented to) extension. *See Turner*, ECF No.
22 22 filed on October 19, 2016—**SIX** days after requesting a two-week extension to respond
23 to the plaintiffs’ motion for conditional certification.
24

25 7. This Honorable Court should not be fooled by Republic’s gamesmanship
26 here. There is absolutely no need for an extension, especially one for an additional three-
27 weeks, for Republic to respond to Plaintiffs’ Motion for Conditional Certification in the
28

1 *Taylor* matter. Republic has all of the information and documents it needs to properly
2 respond within the time frame provided by the Rules.

3 RESPECTUFLY SUBMITTED this the 21st day of October 2016.
4

5 **Anderson2X, PLLC**

6 By: *s/ Austin W. Anderson*
7 Austin W. Anderson

8 **Mushkatel, Robbins & Becker, PLLC**

9 By: *s/ Zachary Mushkatel*
10 Zachary Mushkatel

11 **Attorneys for Plaintiffs and Putative Class Members**
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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October 2016, I electronically filed the foregoing document with the Clerk's Office using the CM/ECF system, which will send a notification of such filing to the following:

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